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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 ALCED BROUSSARD,

14 Defendant.  
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Case No. 1:03-CR-5054 AWI-5

**STIPULATED MOTION AND [lodged] ORDER  
TO REDUCE SENTENCE PURSUANT TO  
SECTION 404 OF THE FIRST STEP ACT, P.L.  
115-391**

Judge: Honorable ANTHONY W. ISHII

16 Defendant, ALCED BROUSSARD, by and through his attorney, Assistant Federal  
17 Defender David M. Porter, and plaintiff, UNITED STATES OF AMERICA, by and through its  
18 counsel, Assistant U.S. Attorney Jason Hitt, hereby stipulate that the Court should enter an  
19 amended judgment reducing Mr. Broussard's sentence to 130 months. The parties further  
20 stipulate as follows:

21 1. In 2005, defendant was convicted of conspiracy to distribute more than 50 grams  
22 of cocaine base (Count 1), and distribution of cocaine base (Count 2), distribution of more than  
23 50 grams of cocaine base (Count 3), and possession with intent to distribute phencyclidine  
24 (Count 4). (Dkt. 104.). In its calculation of the applicable guideline range, the PSR concluded  
25 defendant was a career offender (PSR ¶ 41), subject to a guideline range of 360 month to life.  
26 (PSR ¶ 91.) Because the statutory maximum penalty for the offense of conviction was life (PSR  
27 ¶ 90), the base offense level under USSG § 4B1.1 was 37. (PSR ¶ 41.)  
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1           2.       Defendant was initially sentenced to a term of 300 months, representing a  
2 downward departure of approximately 17% based on overrepresented criminal history category.  
3 (Dkt. 124 at 3; statement of reasons at 2.) The Ninth Circuit Court of Appeals remanded the  
4 case, however, for resentencing because it concluded Mr. Broussard was not a career offender.  
5 (Dkt. 178.)

6           3.       In 2007, defendant was sentenced to a term of 240 months, the statutory  
7 mandatory minimum sentence. (Dkt. 187.)<sup>1</sup>

8           4.       On December 21, 2018, the First Step Act was enacted. First Step Act of 2018, S.  
9 756, Pub. Law 115-391. Section 404 of the Act states that the sentencing court may, upon  
10 motion of the defendant, an attorney for the government, or the court, “impose a reduced  
11 sentence as if section 2 and 3 of the Fair Sentencing Act of 2010 . . . were in effect at the time the  
12 covered offense was committed.”

13           5.       The parties agree that defendant is eligible for a reduction of his sentence under  
14 Section 404. Specifically, had sections 2 and 3 of the Fair Sentencing Act of 2010 been in effect  
15 at the time the offense was committed, defendant would have been subject to a term of “not less  
16 than 10 years.” 21 U.S.C. § 841(b)(1)(B) (2010). The applicable guideline range is 130 to 162  
17 months, and the mandatory minimum penalty is no longer 240 months.

18           6.       Accordingly, the parties request this Court issue the order lodged herewith  
19 reducing Mr. Broussard’s sentence to 130 months on all counts to run concurrently, all other  
20 terms of the judgment remaining unchanged.

21           7.       The undersigned counsel for defendant affirms that he has discussed this  
22 stipulation with defendant and that defendant has authorized counsel to enter into this agreement  
23 on his behalf. The undersigned counsel also affirms that, so long as the Court accepts this  
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26 <sup>1</sup> The court found the base offense level under USSG § 2D1.1(c)(3) and 2D1.1(a)(3) to be 30, and  
27 subtracted two levels for mitigating role, resulting in a total offense level of 28. With a criminal  
28 history category of V, the resulting guideline range was 130 to 162 months. (Dkt. 194 at 7.) But  
because a prior conviction was filed under 21 U.S.C. § 851, defendant was subject to “the  
mandatory minimum 20-year, or 240-month sentence.” (*Id.* at 7-8.)

1 stipulation, defendant waives his right to be present when the Court reduces his sentence, to any  
2 hearing, and to any findings to which he might be entitled. The defendant has so indicated, and  
3 counsel joins in that waiver.

4 Respectfully submitted,

5 Dated: March 25, 2019

Dated: March 25, 2019

6 MCGREGOR SCOTT  
7 United States Attorney

HEATHER E. WILLIAMS  
Federal Defender

8 /s/ Jason Hitt  
9 JASON HITT  
Assistant U.S. Attorney

/s/ David M. Porter  
DAVID M. PORTER  
Assistant Federal Defender

10 Attorney for Plaintiff  
11 UNITED STATES OF AMERICA

Attorney for Defendant  
ALCED BROUSSARD

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1 **ORDER**

2 This matter came before the Court on the stipulated motion of the defendant for reduction  
3 of sentence pursuant to the First Step Act, P.L. 115-391.

4 The parties agree, and the Court finds, that Mr. Broussard is entitled to the benefit of  
5 Section 404 of the First Step Act, resulting in a guideline range of 130 to 162 months.

6 IT IS HEREBY ORDERED that the term of imprisonment imposed in January 2007 is  
7 reduced to a term of 130 months on all counts to be served concurrently.

8 IT IS FURTHER ORDERED that all other terms and provisions of the original judgment  
9 remain in effect. The clerk shall forthwith prepare an amended judgment reflecting the above  
10 reduction in sentence, and shall serve certified copies of the amended judgment on the United  
11 States Bureau of Prisons and the United States Probation Office.

12 Unless otherwise ordered, Mr. Broussard shall report to the United States Probation  
13 Office within seventy-two hours after his release.

14 Defendant's pro se motions filed February 4, 2019 (dkt. 298), February 29, 2019 (dct.  
15 300), and March 4, 2019 (dkt. 301) are dismissed as moot.

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17 IT IS SO ORDERED.

18 Dated: March 25, 2019

  
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SENIOR DISTRICT JUDGE